

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

JEFF HOOKHAM,

Plaintiff,

V.

**PENN-AMERICA INSURANCE
COMPANY,**

Defendant.

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**CIVIL ACTION NO. 6:16-cv-316
JURY**

**DEFENDANT PENN-AMERICA INSURANCE COMPANY'S
NOTICE OF REMOVAL**

TO THE HONORABLE JUDGE OF SAID COURT:

Pursuant to 28 U.S.C. §§ 1441 and 1446, Defendant Penn America Insurance Company ("PAIC") files this Notice of Removal from the state court action pending against it - Cause No. 2016-2602-3, *Jeff Hookham v. Penn-America Insurance Company*; In the 74th Judicial District Court, McClennan County, Texas - to the United States District Court for the Western District of Texas, Waco Division, on the basis of diversity of citizenship, and amount in controversy and respectfully shows:

1. This is a civil action. Plaintiff's Original Petition was filed in state court on or about July 13, 2016, under Cause No. 2016-2602-3, *Jeff Hookham v. Penn-America Insurance Company*; In the 74th Judicial District Court, McClennan County, Texas. Plaintiff served PAIC with Plaintiff's Original Petition on or about July 16, 2016. PAIC filed its answer on or about August 8, 2016.

2. This suit involves a claim for policy benefits under a policy issued to Jeff Hookham dba Pecan Square by PAIC.

3. PAIC files this notice of removal within the 30-day time period required by 28 U.S.C. § 1446(b).

4. The amount in controversy exceeds \$75,000 because Plaintiff demanded between \$100,000 and \$200,000 against PAIC for alleged economic damages in this lawsuit. *See* Exhibit A attached hereto. In addition to claimed actual damages, Plaintiff seeks attorneys' fees and unspecified damages for alleged breach of the duty of good faith and fair dealing, violations of the DTPA, Texas Insurance Code, and pre-judgment and post-judgment interest.

5. Both at the time the lawsuit was filed, and at the time of removal, Plaintiff was and is a citizen and resident of the State of Texas.

6. Both at the time the lawsuit was filed, and at the time of removal, PAIC was and remains an insurer organized and existing under the laws of State of Pennsylvania, with its principal place of business in Bala Cynwyd, Pennsylvania.

7. For diversity purposes, a corporate entity is a citizen of both the state in which it was incorporated and the state in which it has its principal place of business. 28 U.S.C. § 1332(c)(1); *Getty Oil Corp. v. Insurance Co. of N. Am.*, 841 F.2d 1254, 1258 (5th Cir. 1988). No distinct and affirmative allegations regarding citizenship have been alleged as to any defendant. *See McGovern v. American Airlines, Inc.*, 511 F.2d 653, 654 (5th Cir.1975) (when jurisdiction depends on citizenship, citizenship must be "distinctly and affirmatively alleged").

8. Plaintiff's lawsuit is a dispute over insurance benefits. The insurer, PAIC, is not incorporated in Texas and does not have its principal place of business in Texas; therefore, it is

not a citizen of the state of Texas. Thus, by virtue of diversity of citizenship, and amount in controversy, the United States District Courts have original jurisdiction over this case.

9. Simultaneously with the filing of this notice of removal, PAIC files copies of the all pleadings, orders and other filings in the state court. *See* Exhibit A. A certified copy of the docket sheet has been ordered and will be filed immediately upon receipt thereof.

10. Venue is proper in this district under 28 U.S.C. §1441(a) because the state court where the action is pending is located in this district.

11. Defendant made a jury demand in state court.

WHEREFORE, PAIC hereby removes this case to this court for trial and determination.

Respectfully submitted,

THOMPSON, COE, COUSINS & IRONS, L.L.P.

/s/ Christene Wood

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ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

This is to certify that on the 9th day of August 2016 a true and correct copy of the foregoing document was delivered to all counsel of record in accordance with the Texas Rules of Civil Procedure as follows:

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